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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,234	11/17/2003	William B. Raftery	PAO-P0001	5018
58506	7590	06/28/2006	EXAMINER	
FAEGRE & BENSON, LLP ATTN: PATENT DOCKETING 90 SOUTH SEVENTH STREET 2200 WELLS FARGO CENTER MINNEAPOLIS, MN 55402			BARFIELD, ANTHONY DERRELL	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/715,234	RAFTERY, WILLIAM B.	
	Examiner	Art Unit	
	Anthony D. Barfield	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1,3,5,6,8,11,13-19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ginat. Ginat shows a chair comprising: a seat (26a) attached to a base; a backrest (28a); and first and second arms (32a,b), each including an armrest (32a,b), an armrest support (see Fig. 7) and a backrest support (30a) rigidly connected to the armrest support and the backrest, the backrest support having a flexible center portion comprising a spring element (via its engineered plastic see col. 3 lines 45-47) that enables the backrest to pivot by bending the flexible center portion. Ginat further shows the use of an armrest height adjustment via slots/ribs (35b) whereby the armrest support could be mounted therealong.

Art Unit: 3636

3. Claims 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ball ('898). Ball shows a chair comprising: a seat (53) attached to a base; a backrest (127); and first and second arms (61), each including an armrest (64), an armrest support (105) and a backrest support (57,60) rigidly connected to the armrest support and the backrest as the only support for the backrest. The backrest support comprises spring element (130). Ball further shows the use of an armrest height adjustment (62) that simultaneously adjusts the height of the armrest and backrest simultaneously.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginat.

Ginat shows all of the teachings of the claimed invention except the use of a fibrous material for forming the pre-stressed spring material or a cover therefor. It would have been an obvious matter of design choice to modify the spring element of Ginat, from a layered fibrous material or with a cover therefore, since applicant has not disclosed that a layered fibrous spring element solves any stated problem and it appears that the spring, as taught by Ginat, would perform equally well.

6. Claims 9-10,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginat in view of Adams et al. Ginat shows all of the teachings of the claimed invention except the use of

Art Unit: 3636

a supplemental backrest support. Adams et al teaches the conventional use of a supplemental backrest support (14), which comprises a rod (14) that slides within a slot of a bracket (50). It would have been obvious to one of ordinary skill in the art to modify the backrest of Ginat with the supplemental backrest support of Adams et al., in order to allow the backrest to be adjusted for occupants of different heights.

Response to Arguments

7. Applicant's arguments filed 4/12/06 have been fully considered but they are not persuasive. In response to applicant's argument that the backrest support includes a "*spring element*", applicant is directed to the above rejection. The examiner is of the opinion that so far as defined by the claim that the "engineered plastic" of Ginat constitutes the "spring element". In response to applicant's argument, *that the arm and armrest support remains stationary when the flexible center portion bends*, the examiner believes that due to the stiffening ribs and rigid connection of the armrest support to the backrest support that the armrest support and armrest will remain stationary while the flexible center portion bends, as Ginat shows the backrest support bending about axis 36 and hip joint 38, (as shown in Fig. 2A). Applicant should note that the lower portion of the backrest support remains stationary in Fig. 2A. Regarding claim 18 and 21 applicant is directed to the rejections.

Conclusion

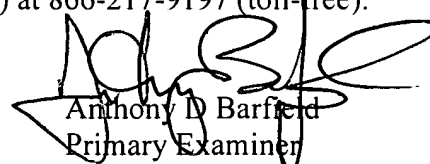
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3636

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Barfield whose telephone number is 571-272-6852. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anthony D. Barfield
Primary Examiner
Art Unit 3636

adb
June 24, 2006